

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROD EDDIE, PAULA EDDIE and McCLINTOCK REALTY, INC.,

Plaintiffs,

-against-

SCOTTSDALE INSURANCE COMPANY,

Defendant

Docket No. : 07-CV-3457
(WP4) (MDF) (KMK)

RULE 56.1 COUNTER-STATEMENT OF FACTS

Pursuant to Rule 56.1 of the Local Civil Rules of this Court, the Plaintiffs, Rod Eddie, Paula Eddie and McClintock Realty, Inc., by their attorneys, Basch & Keegan, LLP, submits the following in response to the Defendant's Rule 56.1 Statement:

1. Admit.
2. Admit.
3. Admit.
4. Admit.
5. Admit.
6. Admit.
7. Admit.
8. Admit.
9. Admit.
10. Admit.

11. Admit.

12. Admit.

13. Admit.

14. Admit.

15. Admit.

16. Admit.

17. Admit.

18. Admit.

19. Admit.

20. Admit.

21. The Plaintiffs admit the contents of this paragraph, except deny that the property was not used for "dwelling purposes," as this term was not defined in the policy. (See Defendant's Exhibit "G").

22. Admit.

23. Admit.

24. The Plaintiffs admit the contents of this paragraph, except that there was a break-in or break-ins that occurred approximately three weeks to one month before the fire. (See pages 53 and 54 of Defendant's Exhibit "D"). As a result of the break-in, the back door of the house appeared to have been kicked in and the front door was open. (See page 54 of Defendant's Exhibit "D"). Mr. Eddie entered the premises and inspected it, and upon doing so he found "a lot of beer bottles" and "several rubbers, stuff like that". (See page 55 of Defendant's Exhibit "D").

25. Admit, and the plaintiffs employees also ran electric and water from the garage. (See page 38 of Defendant's Exhibit "D").

26. Admit, and Mr. Eddie had some personal belongings in the house, but he was unable to go through all of the rooms. (See pages 55 and 56 of Defendant's Exhibit "D").

27. Admit.

28. Admit.

29. Admit.

30. Admit.

31. Admit, but there is evidence that someone entered the premises shortly before the fire. (See pages 54 and 55 of Defendant's Exhibit "D").

32. Admit.

33. Admit.

34. Admit.

35. Admit.

36. Admit.

37. Admit.

38. Admit.

39. Admit.

40. Admit.

41. Admit.

42. Admit.

43. Admit.

Dated: April 22, 2008
Kingston, New York



ELI B. BASCH (EB8921)
BASCH & KEEGAN, LLP
Attorneys for Plaintiffs
307 Clinton Avenue
P.O. Box 4235
Kingston, New York 12402
(845) 338-8884

cc: TRAUB, LIEBERMAN, STRAUS & SHREWSBERRY, LLP
Attorneys for Defendant
Mid Westchester Executive Park
Seven Skyline Drive
Hawthorne, New York 10532
(914) 347-2600